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W.P.No.9086 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.9086 of 2021

K.Mariammal

..Petitioner

Vs.

1. The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.
2. The Chief Educational Officer,
South Chennai District,
Presidency Girls Higher Secondary School Campus,
Egmore, Chennai – 600 008.
3. The District Educational Officer,
South Chennai Education District,
Egmore, Chennai – 600 008.
4. The Correspondent,
Auxilium Girls's Higher Secondary School,
74-75, McNichols Road,
Chetpet, Chennai – 600 031. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for Writ of Mandamus, directing the respondents to pass orders for granting approval of appointment of the petitioner in the sanctioned post of



W.P.No.9086 of 2021

Office Assistant in the 4th respondent school based on the proposal submitted by the 4th respondent school dated 10.03.2020 with all consequential and other attendant benefits, including the arrears of salary from the date of initial appointment on 01.03.2020 within a time frame to be fixed by the Hon'ble Court.

For Petitioner : Mr.S.Nedunchezhiyan
For Respondents : Mr.S.P.Karthik
Government Advocate [R1 to R3]

ORDER

The prayer sought for herein is for a writ of mandamus to direct the respondents to pass orders for granting approval of appointment of the petitioner in the sanctioned post of Office Assistant in the 4th respondent school based on the proposal submitted by the 4th respondent school dated 10.03.2020 with all consequential and other attendant benefits, including the arrears of salary from the date of initial appointment on 01.03.2020.

2. In the fourth respondent school, which is a recognized aided school, there was a post of Office Assistant sanctioned, where one A.Leemaroslien was working and she was resigned the said job on 31.07.2018 therefore, the said post has become vacant.



W.P.No.9086 of 2021

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3. In the vacancy caused by such resignation, the fourth respondent school has decided to appoint a suitable candidate and accordingly, the petitioner was selected and appointed in the said post with effect from 01.03.2020.

4. After having appointed the petitioner, the fourth respondent school has forwarded the said proposal for approval to the official respondents on 10.3.2020, where they have annexed the relevant documents i.e., copy of the relieving order of erstwhile incumbent, copy of the appointment order, duty joining report, staff fixation order, certificates of the petitioner like SSLC, HSC mark statements etc.,

5. Though such a proposal has been sent by the fourth respondent school on 10.03.2020, the said proposal was not considered and no orders have been passed, therefore, the petitioner has approached this Court by filing the present writ petition.

6. Heard Mr.S.Nedunchezhiyan, learned counsel appearing for the



W.P.No.9086 of 2021

petitioner, who would submit that, the petitioner was appointed in the sanctioned post as a non-teaching staff i.e., Office Assistant and therefore, for such an appointment approval should be given, for which, though proposal was sent on 10.03.2020, it has not been considered so far and no order has been passed. Hence, the learned counsel seeks indulgence of this Court to issue a direction to the respondents by way of mandamus as sought for in this writ petition.

7. However, Mr.S.P.Karthik, learned Government Advocate appearing for the respondents 1 to 3 by relying upon the averments made in the counter affidavit filed by the third respondent would contend that, as per the relevant Government Orders, the fourth respondent must have approached the official respondents and obtained a prior permission for making the appointment of the petitioner in the sanctioned post of Office Assistant in the fourth respondent school and without getting a prior approval since the appointment has been made, the said appointment cannot be considered for approval, therefore, the prayer sought for in this writ petition to approve the said appointment as already been sent by the fourth respondent school cannot be considered for compliance, therefore,



W.P.No.9086 of 2021

the learned Government Advocate would seek indulgence of this Court to dismiss this writ petition for the aforestated reasons.

8. I have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

9. Insofar as the plea raised by the respondents that prior approval should have been obtained by the fourth respondent school before making the appointment of the petitioner in the said post of Office Assistant in the fourth respondent school is concerned, that issue is no more *res-integra* because insofar as the non-teaching staff post sanctioned in an aided school like the fourth respondent school is concerned, such kind of prior approval is not required for making an appointment, therefore, the appointment made in the post, which was a sanctioned one, where already one incumbent was working, who resigned the post, therefore, it has become vacant, therefore, the fourth respondent school need not have obtained any prior approval. Therefore, this Court feels that, the proposal sent by the fourth respondent school on 10.03.2020 with regard to the



W.P.No.9086 of 2021

appointment of the petitioner as a non-teaching staff, which is Office Assistant in the fourth respondent school can be considered on merits and decided by the official respondents within a time frame.

10. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ That there shall be a direction to the official respondents to consider the proposal sent by the fourth respondent school on 10.03.2020 with regard to the appointment of the petitioner as an Office Assistant with effect from 01.03.2020 and pass orders approving the appointment of the petitioner in the said post with effect from the date of initial appointment as per the proposal sent by the fourth respondent school and such order shall be passed and communicated to the fourth respondent school within a period of eight(8) weeks from the date of receipt of a copy of this order.

With this direction, this writ petition is disposed of. No costs.

08.09.2022



W.P.No.9086 of 2021

Index : Yes/No
Internet: Yes/No
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R.SURESH KUMAR, J.

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